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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/149983

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 16, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on August 05, 2013, at Racine, Wisconsin.

The record was held open until the end of the day to give Petitioner an opportunity to submit two additional medical bills. They have been marked as Exhibit 3 and entered into the record.

The issue for determination is whether the Racine County Department of Human Services correctly terminated Petitioner's FoodShare benefits effective July 1, 2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Kathy Christman, Lead Financial Support Planner  
Racine County Department of Human Services  
1717 Taylor Ave.  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.

2. On May 6, 2013, the agency sent Petitioner a notice indicating that his April 29, 2013 application for FoodShare benefits had been approved and that as of May 1, 2013, he would be receiving \$101.00 per month in benefits. (Exhibit 12)
3. On May 13, 2013, the agency sent Petitioner a notice indicating that as of June 1, 2013, his FoodShare benefits would be increased to \$134.00 per month. The notice seemed to indicate that Petitioner's income decreased, because he was not receiving unemployment benefits. (Exhibit 13)
4. On June 10, 2013, the agency sent Petitioner a notice indicating that his FoodShare benefits would be ending effective July 1, 2013, because his income went over the program limits. (Exhibit 14)
5. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 16, 2013. (Exhibit 1)
6. Petitioner is neither elderly (over age 60), blind, nor disabled. (Testimony of Petitioner)
7. Petitioner's wife is considered disabled for purposes of receiving Social Security Disability Benefits. (Exhibit 9)
8. Petitioner's wife's medical expenses total \$183.22 per month. (Exhibits 9 and 10)
9. Petitioner's household consists of just himself and his wife. (Testimony of Petitioner)
10. Petitioner has no mortgage or rent, but pays \$308.49 per month in property taxes. (Exhibit 14; Testimony of Petitioner) Petitioner also pays \$37.38 per month in homeowner's insurance. (Exhibit 14)
11. Petitioner's household income in June 2013 was \$324.00 per week in unemployment benefits; and \$1334.90 in federal SSI benefits for his wife (of which \$104.90 was deducted for Medicare part B premiums). (Exhibit 9)

### DISCUSSION

To be categorically eligible, most FoodShare group must have income at or below 200% of the Federal Poverty Level (FPL). *FSH §4.2.1.1; 7 CFR 273.2(j)(2)*. "If the household's gross income goes over 200% of FPL, the case will close." *Id.* 200% of FPL for households with two people is \$2522 per month. *FSH §8.1.1.1*

However, "Households that include an elderly, blind or disabled member do not have a gross income limit, but must have net income that does not exceed 100% FPL and countable assets that do not exceed \$3,250." *FSH §4.2.1.5* For households with two people, 100% of FPL is \$1,261 per month. *FSH §8.1.1.1*

The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FSH § 4.3.1*. The allotment calculation is based on **prospectively** budgeted monthly income using estimated amounts. *FSH §4.1.1*.

#### *Petitioner's Gross Income*

Petitioner received Unemployment Insurance Benefits (UIB), in the amount of \$324.00 per week. In calculating monthly income, a multiplier of 4.3 average weeks per month is used. *Process Help §16.4.1* Thus, Petitioner's monthly UIB income is calculated as follows:

$$\$324.00 \text{ per week} \times 4.3 \text{ average weeks per month} = \$1393.20$$

Petitioner's wife receives \$1334.90 in Social Security Disability Income (SSDI). Thus, Petitioner's total gross income is calculated as follows:

$$\$1393.20 \text{ UIB benefits} + \$1334.90 \text{ SSDI} = \$2728.10$$

*Petitioner's Net Income*

To determine net income, the following deductions are applied to gross income (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$149 per month for a household of 1-3 people. *7 CFR § 273.9(d)(1)*

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5)*.

The heating standard utility allowance (HSUA) is \$442 per month.

There is a cap of \$469.00 on the shelter cost deduction, *unless* a household, like Petitioner's, has an elderly, blind or disabled member.<sup>1</sup>

*FSH, §§ 4.6.7.1 and 8.1.3.*

Petitioner argues that his medical expenses should be counted, because he pays a significant amount for his diabetic supplies and his high risk health insurance and because he believes his wife is legally liable for half of that debt. However, Petitioner has not been determined disabled for purposes of receiving SSDI or similar benefits and only the medical expenses **incurred** by the elderly, blind or disabled FoodShare group members that exceed \$35.00 per month may be deducted. *See FSH §4.6.4* Consequently, only those out of pocket expenses incurred by Petitioner's wife, may be deducted from income, since only Petitioner's wife is disabled and receiving SSDI.

After reviewing Exhibit 10, it is found that Petitioner's Wife's out of pocket Medical Expenses are as follows:

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<sup>1</sup> The term 'disabled' is a term with a definition as to the FoodShare program:

**3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

*FSH, §3.8.1.1.*

Wheaton Franciscan Pharmacy = \$29.84 per month (\$358.06 per year)  
 Advanced Pain Management = \$4.98 per month (\$59.70 per year)  
 Walgreens = \$43.50 per month (\$521.99 per year)  
 Medicare Part B premium = \$104.90

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Total Medical Expenses = \$183.22 per month

\$183.22 - \$35.00 = \$148.22 excess medical expenses

Applying the deductions allowed under FSH, at § 4.6 to Petitioner's gross income we have the following net income calculation:

Gross Income	\$2728.10	Mortgage	\$308.49
		Insurance	+\$37.38
No Earned Income Deduction		HSU	+\$442.00
Standard Deduction	-\$149.00	50% Net income	-\$1215.44
Medical Expenses exceeding \$35	-\$148.22		
No Dependent Care Expenses		Excess Shelter Expense	\$0
<hr/>		<hr/>	
Net Income	\$2430.88		
Excess Shelter Expense	-\$0		
<hr/>		<hr/>	
Total Net Income	\$2430.88		

Petitioner's Net Income of \$2430.88 in June 2013 exceeded the 100% FPL limit of \$1,261 per month for a household of two. *FSH §8.1.1.1* Thus, per *FSH §4.2.1.5*, the agency correctly ended Petitioner's FoodShare benefits effective July 1, 2013.

At the hearing, Petitioner indicated that his unemployment benefits were exhausted in July 2013. If Petitioner's circumstances have changed again, he must notify the agency and reapply for benefits.

Petitioner should note that beginning October 1, 2013, people can apply for health insurance subsidies and go insurance shopping through the exchanges established by "Obamacare". This might be a more affordable means for Petitioner to obtain the health insurance coverage he needs. For further information Petitioner can call [REDACTED] or go on-line at [www.healthcare.gov](http://www.healthcare.gov), although little information is likely to be available before October 1, 2013.

### **CONCLUSIONS OF LAW**

The agency correctly terminated Petitioner's FoodShare benefits effective July 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

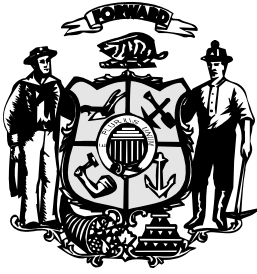
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 14th day of August, 2013.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on August 14, 2013.

Racine County Department of Human Services  
Division of Health Care Access and Accountability